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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/604,418

07/18/2003

Adriano Rosa

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20915

7590

06/28/2004

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EXAMINER

GUADALUPE, YARITZA

ART UNIT

PAPER NUMBER

2859

DATE MAILED: 06/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/604,418	<b>Applicant(s)</b> ROSA, ADRIANO	
	<b>Examiner</b> Yaritza Guadalupe	<b>Art Unit</b> 2859	

-- Th MAILING DATE of this communication appears on the cover sheet with the corresponding address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-68 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 22-56 and 60-68 is/are allowed.
- 6) ☒ Claim(s) 1,57 and 58 is/are rejected.
- 7) ☒ Claim(s) 2-21 and 59 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |  |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>7/18/2003</u> . | 6) <input type="checkbox"/> Other: ____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1 and 57 – 58 are rejected under 35 U.S.C. 102 ( b ) as being anticipated by Donnery ( US 4,771,548 ).

Donnery discloses a goniometer comprising an instrument ( 10 ) having at least one pivotable wing ( 14 ) for aligning the instrument with the person's Achilles tendon, and determining a reference line thereof; and an angle gauge ( 17 ) for determining the inclination of a reference line from a vertical direction. Donnery discloses a base portion ( 13 ) having an arrow ( 18 ) extending orthogonally upwardly therefrom and an alignment portion ( 14 ) pivotally attached to the base portion having a protractor scale ( 17 ) inscribed thereon.

The method of making a shoe correction comprising the steps of inclining the person's lower leg forwardly about the foot a pre-selected angle from the vertical while the person is standing on the foot and while maintaining the person's lower leg in the forward inclined

Art Unit: 2859

position at the pre-selected angle, measuring the lateral angular alignment of the foot as stated in claim 1 will be met during the regular operation of the goniometer disclosed by Donnery.

***Allowable Subject Matter***

3. Claims 2 – 21 and 59 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

4. Claims 22 – 56 and 60 – 68 are allowed.

***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following references are considered of relevance to the present application :

- a. Humphries Jr. et al. ( US 6,163,971 )
- b. Waters ( US 5,979,067 )
- c. Siemel ( US 5,873,172 )
- d. Hall ( US 4,108,164 )

Art Unit: 2859

- e. Graf et al. ( US 4,662,079 )
- f. Martin ( US 3,358,373 )
- g. Root ( US Pub. No. 2002/0100179 )
- h. Meilman ( US 5,822,873 )
- i. Tasker et al. ( US 6,219,929 )
- j. Saenger et al. ( US 6,361,506 )
- k. Lee et al. ( US 6,293,026 )

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yaritza Guadalupe whose telephone number is (571)272 -2244. The examiner can normally be reached on 9:00 AM - 6:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego F.F. Gutierrez can be reached on (571) 272-2245. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2859

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Yaritza Guadalupe  
Patent Examiner  
Art Unit 2859  
June 24, 2004



**CHRISTOPHER W. FULTON**  
**PRIMARY EXAMINER**